



Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY
DOCKET NO. 497

IN THE MATTER THE MATTER OF ARGEO PAUL CELLUCCI

DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission ("Commission") and Lt. Governor Argeo Paul Cellucci ("Cellucci") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, '4(j).

On September 14, 1993, the Commission initiated, pursuant to G.L. c. 268B, '4(a), a preliminary inquiry into allegations that Cellucci had violated G.L. c. 268B, '6. The Commission has concluded its inquiry and, on July 12, 1994, voted to find reasonable cause to believe that Cellucci violated G.L. c. 268B, '6.

The Commission and Cellucci now agree to the following facts and conclusions of law:

1. Cellucci served in the state legislature from 1976 until 1990. (He served as a representative from 1976 until 1983, and as a senator from 1984 until 1990.) As a senator, he served on the Health Care Committee from 1984 to 1988, and the Government Relations and Leadership Rules Committees from 1988 to 1989.

2. As a senator, Cellucci sponsored or co-sponsored several bills affecting the insurance industry.^{1/}

3. Cellucci, as a member of the Health Care Committee, participated in many hearings on bills of interest to the insurance industry. Such participation included voting on whether such bills should be reported out of committee. He also voted on bills of interest to the insurance industry when they reached the Senate floor.

4. During the period relevant here, F. William Sawyer ("Sawyer") was the senior John Hancock Mutual Life Insurance Company, Inc. ("Hancock") lobbyist responsible for Massachusetts legislation. At all relevant times, Sawyer was a registered legislative agent (for Hancock) in Massachusetts. Hancock, a Massachusetts corporation, is the nation's sixth largest life insurer doing business in all 50 states. It offers an array of life, health and investment products. As a Massachusetts domiciled life insurer, its activities are more comprehensively regulated by Massachusetts than by any other state.

5. At all relevant times, Cellucci knew that Sawyer was a Massachusetts registered legislative agent for Hancock. Moreover, Sawyer lobbied Cellucci regarding both specific legislation and general legislative issues approximately a half dozen times per year.

6. Cellucci testified as follows: He met Sawyer in 1984, while campaigning for the state Senate. Sawyer lived within Cellucci's senatorial district. Sawyer contacted Cellucci and offered to support his candidacy. Sawyer attended Cellucci's fundraisers, posted a campaign sign on his home and otherwise helped in Cellucci's 1984 re-election campaign. In the years that followed Cellucci became friendly with Sawyer. Sawyer supported Cellucci in later campaigns as well.

In 1987, Sawyer approached Cellucci to suggest that his daughter, Karen, a college student, might be a good candidate to work for Cellucci as an intern. After the usual interviewing process, Cellucci hired Karen, and she worked in his office in the summer of 1987. Sawyer stopped by frequently to see Karen in Cellucci's office, since

Sawyer worked at the State House as well. These visits numbered about one a week on average. While there, Sawyer also frequently saw Cellucci, and the two spoke on many occasions about sports, politics and other such matters. In the summer of 1989, after Karen graduated from college, she joined Cellucci's staff full-time. In 1991, the Celluccis attended Karen's wedding. She continued to work for Cellucci until 1993.

7. In January 1989, Cellucci and his wife attended the President Bush Inaugural. Sawyer and his wife also attended the Inaugural events. On January 19, 1989, Sawyer hosted a dinner at Petito's restaurant in Washington, D.C. A number of people from Massachusetts who were in Washington for the Inaugural, including the Celluccis, attended this dinner. The Celluccis' pro rata share was \$76.96.

8. On March 3, 1989, after a fundraiser, Sawyer, his wife and two children, plus Cellucci and his two children, got together at a nearby restaurant, Past Times Bar & Grill, in Marlboro. Sawyer paid for the dinner. The Cellucci's pro rata share was \$42.

9. On April 15, 1989, Sawyer and his wife hosted a dinner at the Copley Plaza attended by Cellucci and his wife. The Celluccis' pro rata share was \$154.10.

10. According to Cellucci, he understood that the only reason Sawyer provided the foregoing meals was out of friendship.

11. Section 6 of G.L. c. 268B prohibits a public official or public employee from knowingly or willfully soliciting or accepting from any legislative agent, gifts^{2/} with an aggregate value of \$100 or more in a calendar year.

12. By receiving meals from Sawyer in 1989, Cellucci received from a legislative agent "gifts" within the meaning of c. 268B, '1(g). Where they equalled or exceeded \$100 in value in a calendar year, they were prohibited by G.L. c. 268B, '6. Therefore, by accepting these gifts, Cellucci violated G.L. c. 268B, '6.^{3/}

13. Cellucci fully cooperated with the Commission's investigation.

In view of the foregoing violation of G.L. c. 268B by Cellucci, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Cellucci:

(1) that Cellucci pay to the Commission the sum of two hundred and seventy-five dollars (\$275.00) for violating G.L. c. 268B, '6; and

(2) that Cellucci waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this agreement and in any related administrative or judicial proceedings to which the Commission is or may be a party.

Date: July 19, 1994

^{1/} It appears that the bills were consumer oriented and adverse to the insurance industry. The bills are as follows:

Sole sponsor (all of the following in the Health Care Committee): 1986, S. 467 (group policies to provide benefits for costs of professional nursing services); 1987, S. 465 (establish catastrophic illness expense program funded by state); 1987, S. 510 (same as S. 467);

Co-sponsor: 1986, S. 488, Health Care Committee (Blue Cross/Blue Shield to cover diagnosis and treatment of infertility); 1986, S. 496, Health Care Committee (add psychiatric and mental health nursing specialists to list of those qualified to provide and be reimbursed for out-patient treatment); 1986, S. 509, Health Care Committee (same as S. 467); 1989, S. 720, Insurance Committee (health insurance policies and Blue Cross/Blue Shield contracts to reimburse for services of a registered nurse anesthetist); 1989, S. 723, Insurance Committee (a policy which provides for payment of acupuncturist services must reimburse whether services provided by medical physician or acupuncturist); 1989, S. 726, Insurance Committee (same as S. 465).

^{2/} According to G.L. c. 268B, '1(g) gift means "a payment, entertainment, subscription, advance, services or anything of value, unless consideration of equal or greater value is received"

^{3/} Cellucci's acceptance of these meals from a Massachusetts lobbyist also raises issues under G.L. c. 268A, '3, which prohibits a public

official from accepting an item of substantial value for or because of an official act or act within his official responsibility performed or to be performed. Here, however, there is substantial evidence that the motive for the gratuities was friendship. If friendship is the motive for a gratuity, then the requisite nexus — “for or because of an official act performed or to be performed” — is absent and there is no ‘3 violation. Whether or not the motivation for the gift was friendship, ‘6 of 268B prohibits the giving of such gifts by a legislative agent and the receipt of the gifts by a legislator.